

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Genevieve Lamont	Team: Squad #8	CCRB Case #: 201906379	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Tuesday, 07/09/2019 8:00 PM	Location of Incident: § 87(2)(b)	Precinct: 121	18 Mo. SOL 1/9/2021	EO SOL 8/26/2021	
Date/Time CV Reported Tue, 07/09/2019 1:18 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 07/22/2019 1:38 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POF Tracey Rooney	05882	953338	121 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POF Lauren Brooke	15537	964407	121 PCT
2. POF Janine Williams	05836	965617	121 PCT
3. POF Diana Nerguti	17813	964679	121 PCT
4. POM Joseph Dipaolo	4997	955886	121 PCT
5. POM Nijaz Hasanbegovic	05238	964546	121 PCT
6. POM Christophe Schiro	15133	956244	121 PCT
7. POM Nigel Walters	23558	963321	121 PCT
8. POM Devon Newland	15106	964185	121 PCT
9. POM Joseph Siciliano	13074	966339	121 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POF Tracey Rooney	Discourtesy: Police Officer Tracey Rooney spoke discourteously to individuals.	§ 87(2)(b)
B.POF Tracey Rooney	Force: Police Officer Tracey Rooney used physical force against § 87(2)(b)	§ 87(2)(b)
C.POF Tracey Rooney	Force: Police Officer Tracey Rooney used physical force against § 87(2)(b)	§ 87(2)(b)
D.POF Tracey Rooney	Force: Police Officer Tracey Rooney used physical force against § 87(2)(b)	§ 87(2)(b)

Case Summary

On July 9, 2019, Sgt. Dmitry Brush of the 121st Precinct filed the following complaint with the Internal Affairs Bureau (IAB) on behalf of § 87(2)(b) generating original IAB log #2019-27016.

On July 9, 2019, at approximately 8:00 p.m., § 87(2)(b) § 87(2)(b)-old daughter, § 87(2)(b) was arrested at § 87(2)(b) in Staten Island. § 87(2)(b) approached PO Tracy Rooney of the 121st Precinct, who was telling the crowd gathered to, “Back the fuck up” (**Allegation A: Discourtesy;** § 87(2)(g)). § 87(2)(b) tapped PO Rooney on the shoulder to get her attention. PO Rooney then turned around and pushed § 87(2)(b) twice (**Allegation B: Force;** § 87(2)(g) **and Allegation C: Force;** § 87(2)(g)). § 87(2)(b)'s son, Mark § 87(2)(b) whose age is unknown, approached PO Rooney and yelled at her not to push his mother. PO Rooney attempted to arrest § 87(2)(b) who then ran away. § 87(2)(b) followed behind and grabbed PO Rooney, who then turned back and rear-kicked § 87(2)(b) (**Allegation D: Force;** § 87(2)(g)). § 87(2)(b) was seven months pregnant at the time of the incident. § 87(2)(b) later went to the 121st Precinct stationhouse, where she requested an ambulance as she was experiencing stomach pain. She was removed to § 87(2)(b) in Staten Island. She was arrested for § 87(2)(b) while at the hospital.

§ 87(2)(b) provided cell phone footage of the incident, taken by her neighbor [BR01 and BR02]. Body-worn camera (BWC) footage from PO Rooney, PO Nigel Walters, PO Diana Nerguti, PO Christopher Schiro, PO Nijaz Hasanbegovic, PO Devon Newland, Sgt. Dmitry Brush, PO Edward Ruffe, PO Lauren Brooke, PO Steven Cosentino, PO Joseph Siciliano, PO Joseph Dipaolo, PO Janine Williams, PO Daniel Green, and PO Talia Figueroa, all from the 121st Precinct, was also obtained by the investigation [BR03 through BR20, respectively].

Findings and Recommendations

Allegation (A) Discourtesy: Police Officer Tracey Rooney spoke discourteously to individuals.

It is undisputed that PO Rooney used discourteous language when dealing with a large crowd of individuals who gathered around the arrest of § 87(2)(b).

Footage from PO Rooney's BWC shows her telling the crowd, who are approaching the police vehicle which held § 87(2)(b) to, “Back the fuck up”, at 4:05 minutes [BR03].

PO Rooney believed she dropped an “F-bomb” while speaking with the crowd, as she was “sick and frustrated,” but believed that no one heard her. She stated that the crowd was yelling at her, and that two individuals attempted to get into the police vehicle with § 87(2)(b). Members of the crowd also attempted to block the vehicle from leaving the scene [BR21].

In DCT-DAO Case #2017-17276, it was ruled by the Honorable Paul M. Gamble, the Assistant Deputy Commissioner of Trials, that language which would ordinarily be inappropriate in dealing with civilians may be excused in the case of a violent confrontation [BR22].

In DCT-DAO 2015-15012, it was ruled by the Honorable Paul M. Gamble, the Assistant Deputy Commissioner of Trials, that discourteous language used in the context of a “dynamic” situation in which an officer is attempting to gain control of the situation is deemed acceptable conduct [BR28].

§ 87(2)(g)

§ 87(2)(g)

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Allegation (B) Force: Police Officer Tracey Rooney used physical force against § 87(2)(b)

Allegation (C) Force: Police Officer Tracey Rooney used physical force against § 87(2)(b)

Allegation (D) Force: Police Officer Tracey Rooney used physical force against § 87(2)(b)

It is undisputed that PO Rooney pushed § 87(2)(b) twice and then later kicked her. § 87(2)(b) testified that when she arrived at the front of her building, the crowd gathered outside informed her that her daughter was inside the police vehicle. She approached PO Rooney from behind and reached out to tap her on the shoulder, but did not know if she made contact. PO Rooney then turned around and pushed § 87(2)(b) on the chest, causing her to fall back a couple of steps. She then asked PO Rooney, “Don’t you see I’m pregnant?”, before PO Rooney pushed her again. § 87(2)(b) fell back against a neighbor who helped her regain her balance. § 87(2)(b)’s son, Mark § 87(2)(b), approached PO Rooney and told her to stop pushing his mother. PO Rooney attempted to grab § 87(2)(b) however he moved away. PO Rooney pursued him, and § 87(2)(b) followed her. As she was following her, PO Rooney turned back slightly and backwards kicked § 87(2)(b) once on her inner thigh, which caused a bruise, and once on the bottom of her stomach. § 87(2)(b) stopped following PO Rooney after this [BR23].

PO Rooney testified that as she was speaking with the grandmother of § 87(2)(b) she felt someone touch her on her back, by her hip area near her gun. She turned around and pushed § 87(2)(b) she did not know if she pushed her once or twice. After pushing her, PO Rooney felt that § 87(2)(b) was at a safe distance from her. She stated that she could not see § 87(2)(b) prior to pushing her, and that she believed she was reaching for her gun. While the crowd made her aware that § 87(2)(b) was pregnant prior to her arriving on scene, PO Rooney did not know it was § 87(2)(b) behind her when she pushed her. She added that there was a large crowd present without enough officers on scene to properly manage the situation. As she was trying to talk to § 87(2)(b) § 87(2)(b) swung his fist towards her head. PO Rooney grabbed his hand and attempted to handcuff him. Five or six people from the crowd grabbed § 87(2)(b) and pulled him out of her grasp, and he ran away. PO Rooney pursued him; while doing so, she felt someone on her back, pulling on her right shoulder. She did not know this individual was § 87(2)(b). She administered a “donkey-kick” once, rear-kicking § 87(2)(b) hitting her in the leg, who then released her. PO Rooney did this to get § 87(2)(b) who was on her gun side, off her back. [BR21].

Cellphone footage of the incident showed § 87(2)(b) approaching PO Rooney from behind. At 00:12 seconds, she places her hand on PO Rooney’s hip. PO Rooney then turns around and pushes her twice. PO Rooney’s BWC captured the same interaction, showing that there was approximately two seconds between the first and second push [BR03]. After viewing her BWC, PO Rooney stated that the second push looked like “a poke”. She did this because § 87(2)(b) was still coming towards her after the first push and because she needed to create a safe distance between them [BR21].

At 00:43 seconds of the cellphone footage, § 87(2)(b) approaches PO Rooney, says something to her, and wags in finger in her face. The footage does not capture § 87(2)(b) attempting to punch or swing at PO Rooney. PO Rooney then immediately pursues § 87(2)(b) Thomson who runs away. At 00:48 seconds § 87(2)(b) is seen grabbing PO Rooney’s shoulders and pulling them back as PO Rooney pursues § 87(2)(b) [BR01].

According to Patrol Guide Procedure 221-01, force may be used when it is reasonable to ensure the safety of a member of service or a third person, or otherwise protect life. In determining whether the use of force is reasonable, members of service may consider the actions taken by the subject and the immediacy of the perceived threat. Additionally, members of service will use de-escalation techniques, when appropriate and consistent with personal safety, to safely gain

voluntary compliance to reduce or eliminate the necessity to use force [BR24].

§ 87(2)(g)

§ 87(2)(g)

Civilian and Officer CCRB Histories

- § 87(2)(b)
- PO Rooney has been a member of service for seven years and has been a subject in one prior CCRB complaint and one allegation, which was not substantiated.
 - PO Rooney has an open CCRB case, #201904723, in which § 87(2)(g) discourtesy – word allegation is pled, which is currently under investigation.

Mediation, Civil and Criminal Histories

- This complaint was unsuitable for mediation, as § 87(2)(b) is filing a lawsuit.
- On July 25, 2019, § 87(2)(b) filed a Notice of Claim against the City of New York demanding monetary damages for serious personal injuries, special damages, humiliation, imprisonment, and violation of constitutional rights. The amount of damages is to be determined on an unknown court date [BR26].

§ 87(2)(b)

Squad No.: _____

Investigator: _____
Signature Print Title & Name Date

Squad Leader: _____
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date